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6 Attorneys for Defendant
7 **TOSHIBA AMERICA, INC.** and Specially
8 Appearing Parties Toshiba Corporation and Toshiba
9 America Business Solutions, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 GARY FARRIS and MELVA FARRIS,
13
14 Plaintiffs,

15 3M COMPANY, et al.

16 Defendants.

Case No.: 3:18-cv-04186-JST

**STIPULATION TO DISMISS
DEFENDANT TOSHIBA AMERICA,
INC., AND SPECIALLY APPEARING
PARTY TOSHIBA CORPORATION,
AND TO AMEND THE COMPLAINT;
[PROPOSED] ORDER**

Complaint filed: May 15, 2018

17
18 **WHEREAS**, Plaintiffs GARY FARRIS and MELVA FARRIS (“Plaintiffs”) filed a
19 complaint in Alameda County Superior Court alleging causes of action for Strict Liability,
20 Negligence, Fraud, Conspiracy to Defraud, and Market Share, arising out of alleged exposure to
21 asbestos, (the “Complaint”) and naming as defendants TOSHIBA AMERICA, INC., and
22 TOSHIBA CORPORATION.

23 **WHEREAS**, The matter was removed from the Alameda County Superior Court to the
24 United States District Court for the Northern District of California;

25 **WHEREAS**, TOSHIBA AMERICA, INC. is a corporation organized and existing under the
26 laws of the state of Delaware, with its principal place of business in the state of New York;

27 **WHEREAS**, TOSHIBA CORPORATION is corporation organized and existing under the
28 laws of Japan;

1 **WHEREAS**, TOSHIBA AMERICA BUSINESS SOLUTIONS, INC. is a corporation
2 organized and existing under the laws of the state of California.

3 **WHEREAS**, based on the foregoing and based on the allegations contained in Plaintiffs'
4 complaint, TOSHIBA AMERICA BUSINESS SOLUTIONS, INC. is the proper defendant in this
5 matter;

6 **WHEREAS**, Plaintiffs hereby agree to dismiss TOSHIBA AMERICA, INC. and
7 TOSHIBA CORPORATION from the Complaint without prejudice;

8 **WHEREAS**, TOSHIBA AMERICA, INC., TOSHIBA CORPORATION and TOSHIBA
9 AMERICA BUSINESS SOLUTIONS, INC. stipulate to Plaintiffs amending the complaint to name
10 TOSHIBA AMERICA BUSINESS SOLUTIONS, INC.;

11 **WHEREAS**, TOSHIBA AMERICA BUSINESS SOLUTIONS, INC. agrees to allow
12 Robert Engel, Esq. of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP to accept service by e-
13 mail of the Amended Complaint on behalf of TOSHIBA AMERICA BUSINESS SOLUTIONS,
14 INC.;

15 Based on the foregoing, **IT IS HEREBY STIPULATED**, by and between Plaintiffs and
16 Defendant TOSHIBA AMERICA, INC., and Specially Appearing Parties TOSHIBA
17 CORPORATION and TOSHIBA AMERICA BUSINESS SOLUTIONS, INC., by and through
18 their attorneys of record, as follows:

19 1. That Defendant TOSHIBA AMERICA, INC. shall be dismissed from this matter
20 without prejudice;

21 2. That Specially Appearing Defendant TOSHIBA CORPORATION shall be dismissed
22 from this matter without prejudice;

23 3. Plaintiffs' Complaint shall be amended to name TOSHIBA AMERICA BUSINESS
24 SOLUTIONS, INC.;

25 4. Plaintiffs' Amended Complaint shall be deemed to relate back to their original
26 Complaint, and the Amended Complaint shall be deemed filed as of the date of filing of the original
27 Complaint.
28

1 Dated: September 21, 2018

2 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP

3 By: /s/ Robert G. Engel
4 ROBERT G. ENGEL, ESQ.
5 LISA SILVA PASSALACQUA, ESQ.
6 Attorneys for Defendant,
7 TOSHIBA AMERICA, INC.; and Specially Appearing Parties
8 TOSHIBA CORPORATION AND TOSHIBA AMERICA
9 BUSINESS SOLUTIONS, INC.

7 Dated: September 21, 2018

8 LAW OFFICE OF H.W. TREY JONES

9 By: /s/ Trey Jones
10 TREY JONES, ESQ.
11 Attorneys for Plaintiffs
12 GARY FARRIS and MELVA FARRIS

13 **ORDER**

14 Based foregoing stipulation by the parties, the Court hereby orders that:

- 15 (1) Defendant TOSHIBA AMERICA, INC. is hereby dismissed from this action without
16 prejudice;
- 17 (2) Specially Appearing Defendant TOSHIBA CORPORATION is hereby dismissed from this
18 action without prejudice;
- 19 (3) Plaintiffs may file an Amended Complaint naming TOSHIBA AMERICA BUSINESS
20 SOLUTIONS, INC. within 14 days of this Order;
- 21 (4) Plaintiffs' Amended Complaint shall be deemed to relate back to their original complaint,
22 and the Amended Complaint shall be deemed filed as of the date of filing of the original complaint.

23 **IT IS SO ORDERED.**

24 Dated: September 24, 2018

25 
26 HON. J. S. TIGAR
27 United States District Court Judge
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